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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant	**:**	**Greer, Robert**
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Commissioner for Patents
Mail Stop: Amendment
P.O. Box 1450
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16 February 2009

For: Pavement Marking Pattern and Method

Remarks

In response to detailed action wherein claims 1, 5-6 and 12 are rejected under 35 USC 103(a) as being obvious over Dennison (US 7,001,102) herein referred to as Dennison, and in view of Nakazawa (US 5,238,721) herein referred to as Nakazawa.

Dennison discloses a stabilizing body for use in the construction of asphalt roads having a substantially rigid, planar body defining a multi-cell configuration between spaced operative top and bottom sides of the planar body, and in which the cells are defined by surrounding side walls extending from the operative top side of the body towards the operative bottom side of the body and the side walls of each cell have a plurality of projecting, continuously curved, rib formations that project therefrom, without sharp corners that can induce reflective cracks, into the space defined by the cell and that extend substantially parallel to the general plane of the body, the rib formations, in use of stabilizing body, serving to anchor an asphalt composition that is received in the cells for forming a road surface within the cells.

Nakazawa discloses a tile floor structure comprising a flat floor surface, tiles disposed thereon and a joint interposed between adjacent tiles where the tiles have a shape such that a periphery of one of the tiles is adjusted to the peripheries of adjacent tiles by a joint. The peripheries of the tiles are provided with an elastically compressible joint tape where the joint tape is a closed-cell foamed resin and the joint tape forms a joint at the peripheries of adjacent tiles in an elastically compressed condition when the tiles are applied to the flat floor

surface and having elasticity when so compressed for preventing the tiles from moving laterally and lifting relative to the floor surface. There is an elastic sheet interposed between the floor surface and the tiles, having a bottom face in contact with the floor surface and an upper face in contact with backs of the tiles such that the elastic sheet prevents the tiles from moving laterally with respect to the floor surface.

The present application discloses a pre-bonded pavement marking pattern wherein a grid section and an insert section are preassembled into a unified pattern prior to any attempt to bond with a surface. The pre-bonded pavement marking pattern is sprayed with a hot melt adhesive that bonds the planar bottom portion of the grid section and insert section together to enable handling, movement, transportation and application of the pavement marking pattern to the surface to which it is to be permanently adhered. The marking pattern is heated to a preferred temperature to permanently attach the pavement marking pattern to the surface.

Dennison discloses a planar body having ribs which hold a stabilizing body (cell) inserted within. The inserted stabilizing body is greater in height to the depth of the planar body by 10% to 50% (Col. 2; lines 28-33). Dennison does not disclose adhering the stabilizing body within the planar body with an adhesive nor preassembling the planar body and the stabilizing body for transportation. Dennison also discloses the stabilizing body (cell) as being open at the top as a receptacle for asphalt or other paving composition (Fig. 6-9, 11). This configuration would present itself as similar to a lattice structure on the topmost surface. The present application has a top surface and a bottom surface that are co-planar and of similar thickness in that the grid portion and the insert portion share the same planar top surface which does not present a latticed structure and planar bottom surface where the flat planar bottom surface of the grid is adhesively bonded to the flat planar bottom surface of the insert. The bottom surfaces of Dennison's planar body and the stabilizing body (cell) reside in different planes and therefore the bottom surfaces cannot be joined together on the same plane (Fig. 6). The different planes assist the device of Dennison in stabilizing pavement. The flat, planar surface on the top and bottom surfaces of the present application would not add strength to a pavement surface and would therefore teach away from the egg crate structure of Dennison.

In particular regards to the anchoring system of Dennison, the anchoring is described as being below the topmost surface of the roadway. This is to enable the planar body and stabilizing

body to become internally integral to the roadway. Dennison discloses (Fig 10, Col. 6; lines 39-61) the stabilizing body and planar body are embedded within the roadway surface, thereby also teaching away from the present application. The present application is a pavement marking pattern which requires visibility to be effective and is applied to the top of a pavement surface. Dennison would have no motivation to apply the planar body and stabilizing body to the top of a pavement surface because no strengthening of the surface would occur. The present application describes the adhesive bonding on the bottom surface of the grid and insert as being to enable transportation of the entire grid and insert and not as a required adhesive for bonding to the top of a pavement surface.

Nakazawa discloses an elastic sheet interposed between the floor surface and the tiles having a bottom face in contact with the floor surface and an upper face in contact with the backs of the tile such that the elastic sheet prevents the tiles from moving laterally with respect to the floor surface. There is no adhesive applied to the elastomeric sheet of Nakazawa. Application of adhesive to the elastomeric sheet of Nakazawa would teach away from the ability to easily reapply tiles to the elastomeric sheet (Col. 1; lines 59-68). With no adhesive the tile pattern of Nakazawa is not moveable as a continuous pattern. This is distinctly different from having a grid section and an insert section that are sprayed with hot melt adhesive that bonds the planar bottom surface of the grid section and insert section together as a unified pattern and is able to be transported as a continuous pattern as disclosed in the present application. Applying Nakazawa's elastomeric sheet, which provides a non-skid surface without a binding adhesive, to the disclosure of Dennison which has a planar body at a plane and the stabilizing body at a different plane does not provide a pattern where the bottom plane of the planar body is in contact with the bottom plane of the stabilizing body. Dennison describes the stabilizing bodies (cells) as "each cell having a plurality of projecting formations projecting formatively upward from the base wall thereof may define an egg crate configuration (Col. 2; lines 25-27, Fig. 6). The bottom of the planar body and the bottom of the stabilizing body are in are in two dissimilar planes and as such cannot be joined by an elastomeric sheet on the same plane.

Neither Dennison nor Nakazawa nor the combination of Dennison and Nakazawa disclose a pre-bonded pavement marking pattern that utilizes a sprayed hot melt adhesive for bonding the planar bottom portion of the grid section and insert section together such that the entire

pavement marking is on a similar plane and forms a pattern that is moved as a single continuous structure.

Claim 1 is currently amended to more clearly point out the planar relationship of the bottom of the grid and inserts.

In response to detailed action wherein claims 7 and 14 are rejected under 35 USC 103(a) as being obvious over Dennison (US 7,001,102) herein referred to as Dennison, and in view of Nakazawa (US 5,238,721) herein referred to as Nakazawa and in further view of Scharpf (US 5,509,715) herein referred to as Scharpf.

Dennison discloses a stabilizing body for use in the construction of asphalt roads having a substantially rigid, planar body defining a multi-cell configuration between spaced operative top and bottom sides of the planar body, and in which the cells are defined by surrounding side walls extending from the operative top side of the body towards the operative bottom side of the body and the side walls of each cell have a plurality of projecting, continuously curved, rib formations that project therefrom, without sharp corners that can induce reflective cracks, into the space defined by the cell and that extend substantially parallel to the general plane of the body, the rib formations, in use of stabilizing body, serving to anchor an asphalt composition that is received in the cells for forming a road surface within the cells.

Nakazawa discloses a tile floor structure comprising a flat floor surface, tiles disposed thereon and a joint interposed between adjacent tiles where the tiles have a shape such that a periphery of one of the tiles is adjusted to the peripheries of adjacent tiles by a joint. The peripheries of the tiles are provided with an elastically compressible joint tape where the joint tape is a closed-cell foamed resin and the joint tape forms a joint at the peripheries of adjacent tiles in an elastically compressed condition when the tiles are applied to the flat floor surface and having elasticity when so compressed for preventing the tiles from moving laterally and lifting relative to the floor surface. There is an elastic sheet interposed between the floor surface and the tiles, having a bottom face in contact with the floor surface and an upper face in contact with backs of the tiles such that the elastic sheet prevents the tiles from moving laterally with respect to the floor surface.

Scharpf discloses a flooring having a top surface and an undersurface, for truck trailers, railroad box cars, or shipping container having a plurality of substantially parallel, wooden strips having their longitudinal edges in abutting relationship; a plastic film or fabric disposed to the undersurface of the flooring where the plastic film or fabric is permeable to vapor and impermeable to liquid and a discontinuous means for adjoining the plastic film or fabric to the undersurface of the flooring at least at the perimeter of the flooring.

Dennison discloses a planar body having ribs which hold a stabilizing body (cell) inserted within. The inserted stabilizing body is greater in height to the depth of the planar body by 10% to 50% (Col. 2; lines 28-33). Dennison does not disclose adhering the stabilizing body within the planar body with an adhesive nor preassembling the planar body and the stabilizing body for transportation. Dennison also discloses the stabilizing body (cell) as being open at the top as a receptacle for asphalt or other paving composition (Fig. 6-9, 11). This configuration would present itself as similar to a lattice structure on the topmost surface. The present application has a top surface and a bottom surface that are co-planar and of similar thickness in that the grid portion and the insert portion share the same planar top surface which does not present a latticed structure and planar bottom surface where the flat planar bottom surface of the grid is adhesively bonded to the flat planar bottom surface of the insert. The bottom surfaces of Dennison's planar body and the stabilizing body (cell) reside in different planes and therefore the bottom surfaces cannot be joined together on the same plane (Fig. 6). The different planes assist the device of Dennison in stabilizing pavement. The flat, planar surface on the top and bottom surfaces of the present application would not add strength to a pavement surface and would therefore teach away from the egg crate structure of Dennison.

In particular with respect to the anchoring system of Dennison, the anchoring is described as being below the topmost surface of the roadway. This is to enable the planar body and stabilizing body to become internally integral to the roadway. Dennison discloses (Fig 10, Col. 6; lines 39-61) the stabilizing body and planar body are embedded within the roadway surface, which also teaches away from the present application. The present application describes a pavement marking pattern which provides effective and enhanced visibility such that the enhanced visibility is applied to the top of a pavement surface. Dennison would have no motivation to apply the planar body and stabilizing body to the top of a pavement surface because this would not accomplish the desired strengthening (of the surface). The present

application describes adhesive bonding on the bottom surface of the grid and insert to enable ease of transportation of the entire grid and insert via a single section that does not require adhesive for bonding to the top of a pavement surface.

Nakazawa discloses an elastic sheet interposed between the floor surface and the tiles having a bottom face in contact with the floor surface and an upper face in contact with the backs of the tile such that the elastic sheet prevents the tiles from moving laterally with respect to the floor surface. There is no adhesive applied to the elastomeric sheet of Nakazawa. Application of adhesive to the elastomeric sheet of Nakazawa would teach away from the ability to easily reapply tiles to the elastomeric sheet (Col. 1; lines 59-68). With no adhesive the tile pattern of Nakazawa is not moveable as a continuous pattern. This is distinctly different from having a grid section and an insert section that are sprayed with hot melt adhesive that bonds the planar bottom surface of the grid section and insert section together as a unified pattern and is able to be transported as a continuous pattern as disclosed in the present application. Applying Nakazawa's elastomeric sheet, which provides a non-skid surface without a binding adhesive, to the disclosure of Dennison which has a planar body at a plane and the stabilizing body at a different plane does not provide a pattern where the bottom plane of the planar body is in contact with the bottom plane of the stabilizing body. Dennison describes the stabilizing bodies (cells) as "each cell having a plurality of projecting formations projecting formatively upward from the base wall thereof may define an egg crate configuration (Col. 2; lines 25-27, Fig. 6). The bottom of the planar body and the bottom of the stabilizing body are in are in two dissimilar planes and as such cannot be joined by an elastomeric sheet on the same plane.

Applying the adhesive of Scharpf to the elastomeric sheet of Nakazawa to bind the planar body and the stabilizing body of Dennison does not provide a bound planar and stabilizing body which is on the same plane as disclosed in the present application. The inserted stabilizing body is greater in height to the depth of the planar body by 10% to 50% (Col. 2; lines 28-33). The present application discloses a planar top surface and a planar bottom surface where the planar top surface and planar bottom surface are bound by a spray adhesive on the singular planar bottom surface.

Neither Dennison nor Nakazawa nor Scharpf nor the combination of Dennison and Nakazawa and Scharpf disclose a pre-bonded pavement marking pattern with a sprayed hot melt

adhesive that bonds the bottom planar portion of the grid section and insert section together and resulting in a fixed pattern and that is subsequently transported to the desired location as a single continuous structure.

It is requested that claim 26 be rejoined if the search of the article claims are found allowable.

Claims listing:
Claim 1 – (Currently amended)
Claims 2-4 (Canceled
Claims 5-6 (Previously presented)
Claim 7 (Currently amended)
Claims 8-11 (Canceled)
Claim 12 (Previously presented)
Claim 13 (Canceled)
Claim 14 (Previously presented)
Claims 15-25 (Canceled)
Claim 26 (Withdrawn)

Applicant submits that the application is now in condition for allowance, and early notification of such action is earnestly solicited.

Please deduct any shortages of fees from the USPTO account for Customer #29439.

Dated this 16th day of February 2009

Respectfully Submitted,

/Guerry L. Grune/

By: _____

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